

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

MARK KOCAJ,

Defendant.

* * * * *

Case No. 19-CR-575 (FB)

Brooklyn, New York

December 6, 2019

TRANSCRIPT OF CRIMINAL CAUSE FOR BAIL HEARING
BEFORE THE HONORABLE SANKET J. BULSARA
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:

KEITH EDELMAN, ESQ.
Asst. United States Attorney
United States Attorney's Office
271 Cadman Plaza
Brooklyn, NY 11201

For the Defendant:

CHRISTOPHER BOOTH, ESQ.
Lipman & Booth LLP
11 Broadway
Suite 967
New York, NY 10007

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Fiore Reporting and Transcription Service, Inc.
4 Research Drive, Suite 402
Shelton, Connecticut 06484 (203)929-9992

1 (Proceedings commenced at 2:37 p.m.)

2 THE CLERK: Criminal cause for a bail application,
3 Case Number 19-CR575, United States v. Mark Kocaj.

4 Counsel, your name for record.

5 MR. EDLEMAN: Good afternoon, Your Honor. Keith
6 Edelman for the United States.

7 THE COURT: Good afternoon.

8 MR. BOOTH: Lipman & Booth, by Christopher Booth,
9 for the defendant. Good afternoon, Your Honor.

10 THE COURT: Good afternoon. Good afternoon, Mr.
11 Kocaj.

12 Okay. I understand we're here for a bail hearing.
13 Is there any agreement on bail at all?

14 MR. EDELMAN: There is no agreement, Your Honor.
15 The government is seeking detention, which is in accordance
16 with Pretrial Service's recommendation for the reasons set
17 forth in our detention memo, which I can emphasize and
18 elaborate to Your Honor.

19 THE COURT: And before I get to that, counsel, what
20 is your position on bail? Or at least, what are you
21 proposing, if anything?

22 MR. BOOTH: Your Honor, I am proposing a bond in
23 the amount of \$600,000, secured by three properties, one
24 being the defendant's home, the second property being a
25 single-family home of his brother-like friend, who is here in

1 the courtroom, and also not necessarily the house property,
2 but that same individual who owns that home is pledging
3 \$138,000 in his 401K plan.

4 If you add up the equity of those two homes and the
5 138,000, it comes to \$634,627. The combined income of three
6 signers that I propose is a cumulative income of \$280,000 a
7 year.

8 We were recommending GPS monitoring, home detention
9 with permission to work as verified by Pretrial Services,
10 surrendering my client's passport, and travel restricted to
11 the Eastern District and Southern District.

12 THE COURT: Okay. Mr. Edelman, let me ask you a
13 few questions.

14 MR. EDELMAN: Sure.

15 THE COURT: This is an indictment that names a
16 number of defendants and, obviously, each bail determination
17 is based upon each defendant's charges and individual
18 characteristics.

19 But to some degree, there is some inference that
20 can be drawn, perhaps, at least within the corners of a
21 single indictment, as to how various defendants are treated,
22 and I do note, it's at least my understanding that there's
23 some defendants in this indictment who have been given bond.

24 There are others who have been subject to permanent
25 orders of detention. There are others for whom -- like Mr.

1 Kocaj, it's up in the air and their hearing is present.

2 So you know -- and I'd like to know, at least to
3 the extent you're able to say, the basis for which some of
4 the defendants charged in this indictment were amenable to
5 release, particularly given the genesis or the beginning of
6 your pretrial detention memo, which goes on for several pages
7 about how mere affiliation with organized crime would be
8 sufficient to deny bail, and you cite a litany of cases that
9 at least nod in that direction. So I'd like to hear a little
10 bit more about that.

11 MR. EDELMAN: Sure. So what I first note and I
12 want to make sure is clear is Mr. Kocaj is charged in two
13 indictments.

14 One indictment is based on his association with the
15 Gambino crime family and the predicate acts underlying that --
16 that charge relate to various types of fraud, including
17 honest services, wire fraud.

18 But the reason why I bring this up and the real
19 distinguishing factor between Mr. Kocaj and the other
20 defendants who the government consented to, is he's charged
21 in a second indictment with extortionate collection of
22 credit, and extortionate collection of credit conspiracy.

23 And the evidence underlying that indictment
24 includes repeated recorded statements of Mr. Kocaj --

25 THE COURT: Before we get to that, I thought that

1 there were individuals charged in the first indictment, also
2 with those offenses, extortionate collection of credit, and
3 were any of those defendants -- did the government consent to
4 bond on any of those defendants charged in -- I know he's not
5 charged for that in this -- in that first indictment, but I
6 hope you understand my somewhat circular question.

7 MR. EDELMAN: No, I understand, Your Honor, and the
8 answer is no.

9 THE COURT: Okay.

10 MR. EDELMAN: The only defendants charged in the
11 *Barca, et al.* indictment with extortion related offenses are
12 Andrew Campos, who Judge Reyes ordered permanently detained
13 after a contested bail hearing, and Vincent Fiore, who the
14 government is seeking detention on and, as Your Honor alluded
15 to, is being put off perhaps for a later date.

16 So the threats of violence that Mr. Kocaj made,
17 distinguishes him from every single other defendant to whom
18 the Government consented. Every other defendant did not have
19 threats of violence as one of the allegations against them.

20 THE COURT: So I listened to the recordings that
21 the government proffered. I don't know if defense counsel
22 had an opportunity to review them.

23 MR. BOOTH: Well, I did, Your Honor, and if I may,
24 that was called to my attention and I have mixed feelings on
25 how to proceed at this moment in light of that information.

1 I mean, obviously, the Court and the prosecution
2 being in possession of information I don't have, puts me at a
3 disadvantage and I have very, what I think are compelling
4 arguments, to be made against what's been disclosed to me
5 already.

6 So if there are things the Court has heard that I'm
7 not aware of, certainly --

8 THE COURT: Well, we certainly can put the hearing
9 off so you have an opportunity to listen to them.

10 MR. BOOTH: Well, the -- I said I was of two minds.

11 THE COURT: I mean, right.

12 MR. BOOTH: The other mind is, if the Court is --
13 the Court has seen the government's detention letter. And if
14 the detention letter is the thrust of what the Court is
15 relying on and not something else to my disadvantage --

16 THE COURT: Well --

17 MR. BOOTH: -- before it is heard.

18 THE COURT: -- I'm not -- I'm not sure. No one is
19 trying to create a disadvantage, either for you or your
20 client.

21 And so -- and I'm not suggesting that anyone either
22 is or intending to do that, and I'm happy to give you and
23 your client whatever leeway that you need to listen to those
24 recordings and make whatever arguments you wish upon them.

25 And it may well be in your interest to do so,

1 because at least the way I understand the government's
2 proffer of the recordings is that they have provided certain
3 quotations from those recordings in the detention memo, which
4 they believe, or they proffer constitute extortionate threats
5 and the like.

6 I will say that the recordings, because they are
7 recordings, have conversation between persons on them, and
8 the government provided me the full set of the recordings and
9 I listened to the pinpointed areas that correspond to
10 quotations that are in the detention memo.

11 There may be other elements of that, the context of
12 the conversation, who else is involved, et cetera, that could
13 potentially benefit your client.

14 So I don't want to prejudice you or your client,
15 and I'm happy to -- you know, it wouldn't be before me, but
16 we're happy to put it over because you know, it is certainly
17 the central evidence that the -- I don't think I'm saying
18 anything the government would dispute. It's the central
19 evidence that they relied on.

20 And the reason I asked for them is because I don't
21 want to just take one side's word about what it is, and it's
22 an important -- unlike other situations where the government
23 proffers evidence and I'm taking the lawyer's word on it,
24 there's actually underlying things that are quoted, and so I
25 asked for them.

1 So you know, I'm fully happy to put it over and
2 give you an opportunity to listen to them. You may have
3 things that you write in response to them.

4 Obviously, you may not want to put it in writing
5 and you may just want to make it in concert with the bail
6 application.

7 There are all kinds of considerations attendant to
8 doing so, and I am not inclined to do one thing, which is to
9 play them in open court or anything like that --

10 MR. EDELMAN: Thank you, Your Honor.

11 THE COURT: -- because of various other context
12 and, you know, if the Government felt that in the context of
13 the bail application they only wanted to provide certain
14 snippets that the -- that's all the Court could rely on, and
15 you can look at -- listen to those snippets, that would be
16 fine with me as well.

17 In other words, there's a lot of stuff in there
18 that I don't know would or would not constitute discovery
19 material or otherwise.

20 And so -- but it is the central piece of evidence
21 that is being used by the Government as I at least also
22 confirm at least -- or my understanding from what Mr. Edelman
23 just said, which is the central -- one of the central
24 distinguishing characteristics between your client and other
25 clients who have been granted bail, which is some of the

1 things I look at, right?

2 Particularly in the same -- you know, in terms of
3 the hierarchy of offenses within the same indictment, that
4 distinguishes why the government might not consent to your
5 client.

6 So I'm happy to put it over and I'm happy to give
7 you a moment to chat with your client about it, you know, and
8 you know, I defer to the marshals about, you know, whether
9 they want you to go back over there and have a second call
10 about it. But let me --

11 MR. EDELMAN: Can I -- I'm sorry. Might I just
12 respond, perhaps a little bit; because as Your Honor alluded
13 to, typically bail hearings are done by proffer without
14 underlying evidence provided. And Your Honor requested, and
15 so of course we put it together for Your Honor.

16 But what I note is, it's extremely sensitive
17 information for a variety of reasons. It is material that
18 will be disclosed during the course of discovery. Make no
19 doubt.

20 But only pursuant to a strict protective order.
21 That will at least be our position and we will request that -
22 - that there be an agreement upon that. If there's no
23 agreement upon that, we will be applying to the district
24 judge for a strict protective order governing the
25 dissemination of these materials.

1 And so I say that just as context for why I didn't
2 just simply hand over a CD this morning.

3 THE COURT: I understand that. And I under -- I
4 don't take what you're saying as an attempt to -- you could
5 certainly withdraw the recordings and have them not rely on
6 it, and just rely on the indictment.

7 But I take it that's not what you're doing because
8 then I'm just looking at the face of the indictment, the
9 Pretrial Services report, and you know, what your proffer is.

10 But, you know -- so I don't want to -- I'm not
11 attempting to prejudice the government's case or to
12 jeopardize either side's evaluation here.

13 So you're not required to rely on them, but if you
14 do rely on them, I do think -- just like in other cases where
15 I've seen the video of an incident in deciding whether or not
16 the offense is so dangerous that the defendant is such a
17 danger to the community that bail ought not to be considered.
18 We view videos all the time, which is why I ask. So --

19 MR. EDELMAN: Sure. And videos and these types of
20 recordings obviously are different.

21 So what I would say is, we are relying on the
22 proffer in our detention memo as to what is on the
23 recordings.

24 And we are entitled, and the case law is obviously
25 very, very clear, we can proceed by proffer and say what the

1 evidence is, and we have said so, and there is evidence about
2 that.

3 Now look, Your Honor has listened to the
4 recordings, so that obviously has happened, but we're
5 entitled to proceed by proffer and are doing --

6 THE COURT: You're entitled to proceed on proffer
7 but I'll tell you, your attempt to deny this defendant bail
8 with zero criminal history is on much shakier ground without
9 the recording, without the context. You have -- you know,
10 you are talking about then, two threats.

11 One of which is not communicated to the victim even
12 by the -- by the virtue of the letter that you've provided
13 the other one, which frankly I don't also believe is
14 communicated to anyone, and is not clear even in the
15 detention memo who they're talking about, and whether it is
16 the defendant speaking about him employing violence or
17 somebody else employing violence and he's simply making an
18 observation.

19 I will tell you right now, that -- the detention
20 memo does not create the kind of record for someone with zero
21 criminal history, and the beginning part of the detention
22 memo, the pages about association with organized crime, et
23 cetera, in light of the fact that you've given, and the
24 government has consented to a bunch of other defendants who
25 have similar associations, the only thing that's the

1 differentiating factor appear to be two threats, neither of
2 which appears in the detention memo to be communicated to,
3 number one, a victim.

4 Number two, it's not clear, at least even in the
5 detention memo, whether they're simply observations of a
6 third-party that are being repeated by the defendant as
7 opposed to as an attempt to influence or be communicated by a
8 person to a victim.

9 So you know, you're certainly able to proceed by
10 proffer, but you know, you know, I'm not sure that the --
11 this is not a presumption case, correct?

12 MR. EDELMAN: Correct, Your Honor.

13 THE COURT: And so I'm not sure the Government
14 meets its burden on the -- on the basis of the detention memo
15 alone, particularly given the -- I do note that while I do
16 take Pretrial Service's recommendations into serious
17 consideration, the assessment of danger are based on three
18 things.

19 The nature of the incident offense, which I just
20 talked about, and how -- and what I think -- at least the
21 weak footing the Government's proffer in the detention memo
22 is, and then association and ties to organized crime
23 families, which I don't see in the detention memo as
24 discussed at all about this defendant as opposed to every
25 single other person in the detention memo.

1 So the assessment of danger, you know, rises and
2 falls as it were, on the two paragraphs on page 14 of the
3 detention memo, one of which is a long ellipses written
4 indication that number one, the quote/unquote victim, while
5 I'm not disputing is a victim but just for identification
6 purposes, may suffer various acts of violence.

7 It reads like an observation that he's making and
8 not a direct threat against somebody.

9 And there is no statement in here, and you
10 certainly could say that it was -- that this defendant
11 communicated that threat, or used a third-party to
12 communicate that threat to the victim, which obviously would
13 change my thinking on it. But that's not what the Government
14 says in this paragraph.

15 And in the prior paragraph, I do agree that that's
16 a problematic set of statements, but if I'm looking at the
17 full set of circumstances of this defendant, that would be
18 the entirety of the criminal history and the nature of
19 dangerousness and violence attributable to him. So --

20 MR. BOOTH: Judge, may I?

21 THE COURT: You know, when you're ahead it's good
22 not to talk, but you're welcome to say whatever. Sometimes
23 it can go in the opposite direction. Go ahead.

24 MR. BOOTH: Judge, I was going to say, if the Court is
25 prepared to excise from its consideration what you've

1 listened to and just proceed as the Government wants, on the
2 proffer, let's do the whole thing right now.

3 THE COURT: Well, of course now that I've kind of
4 laid out what I would do in such a circumstance, that --

5 MR. BOOTH: Well, Judge, you know I mean --

6 THE COURT: You know --

7 MR. BOOTH: -- the reality is, I could show you my
8 notes, the Court said half of my arguments already.

9 THE COURT: And look, I've been talking for a while
10 so I'm going to give Mr. Edelman a time -- you know, chance
11 to respond. And also, if he wanted to chat with his
12 colleagues on how he'd like to proceed, or just make his
13 decision now, I'm happy to --

14 MR. EDELMAN: I am --

15 THE COURT: -- give the defendant time. I can give
16 you as much time as you'd like.

17 MR. EDELMAN: We learn to act on our feet. What I
18 will say, Your Honor, is first off, the reason why I brought
19 up the protective order issue is, I do want to rely on the
20 recordings, so -- but I do want there to be a court order in
21 place about the scope of these recordings before disclosing
22 them. So if we get to that point, I can talk a little bit
23 more about --

24 THE COURT: So, I mean, that's an easy application
25 for you to make. In other words, it is -- not to me because

1 you want to do it in writing. You know, you can --

2 MR. EDELMAN: I -- I -- I --

3 THE COURT: -- and you want to negotiate it with
4 the defense counsel.

5 MR. EDELMAN: I could propose -- I mean, if we were
6 trying to do this -- I have a computer. We can have Mr.
7 Booth listen to the recordings, but not retain a copy. And
8 if Your Honor endorses that as an order, we can permit that
9 to happen.

10 And the reason why I say this is important is
11 because there is more -- and I think Your Honor's reading of
12 the detention memo is fair, but it doesn't truly give the
13 full picture, and a couple factual points I want to just make
14 clear, and to the extent these -- the recordings bear this
15 out a little more, I think this is why I think it's
16 important.

17 Number one is, in the recording from November of
18 last year, it's important to emphasize that the statements
19 Mr. Kocaj makes about what he can do, what he will be able to
20 have people go commit acts of violence against a third-party.
21 That's him saying, I can do this. I'm happy to do this, et
22 cetera, et cetera. Those statements are made to the person
23 who is ultimately the victim in May 2019.

24 So the victim in May 2019 -- excuse me, the victim
25 as of November 2018, has in his mind -- he knows that Mr.

1 Kocaj is the type of person who has this wherewithal, at
2 least by his own words, to have Albanians as he calls them,
3 go commit various acts of violence, ridden with expletives,
4 breaking someone's neck, finding out where someone is,
5 catching an f'ing beating, et cetera, et cetera.

6 So that is already in the victim's mind come May
7 2019 when this other dispute arises. And what I'll say there
8 is, Mr. Kocaj does collect money through a third person that
9 is from the victim.

10 So there is direct link -- when I say direct link,
11 it goes from the money from the victim to another person, to
12 Mr. Kocaj, which is all done with the background of who Mr.
13 Kocaj is, and Mr. Kocaj's understanding of what will happen
14 if this person doesn't pay.

15 THE COURT: And I had questions about that, and I
16 know that, you know, the government may not be prepared to
17 answer that. I mean, there's sort of the unstated inference
18 there, that the reason the money is paid over is because of
19 this statement, or the set of statements.

20 I recognize you're talking also about the predicate
21 in the year before, but your statement is saying ultimately,
22 you know, X amount was paid by the victim, suggests but you
23 don't say that the victim became aware of these threats or
24 statements that were made to a third-party, and read like an
25 observation. And you can draw that inference in different

1 ways, right?

2 You can just draw an inference by the dates of the
3 conversations and the date the money was paid. It doesn't
4 have to be through, you know, the victim told us that he got
5 the threat through a piece of paper or heard from somebody
6 else, right?

7 MR. EDELMAN: Correct.

8 THE COURT: So --

9 MR. EDELMAN: So what I will say is, we're very
10 confident that the reason the victim paid over the money was
11 because he understood what would happen if he didn't; what
12 the threats were behind that.

13 He had the underlying gambling debt, but that
14 the reason that he paid it over was because he understood
15 what was behind that debt. He understood who the people
16 were.

17 The reason why I also bring this up is, in the
18 November 2018 recording, when Mr. Kocaj is talking with the
19 ultimate victim, he's talking about some of the same
20 associates that are later the debtors in the May 2019
21 incident.

22 So when Mr. Kocaj and the victim go back and forth
23 about different people in the community, it's those same
24 sorts of people who the victim ultimately becomes indebted
25 to.

1 I think I may have said debtor and I meant
2 creditor. But that's also important for realizing that a
3 victim was victimized.

4 But again, I don't want to get too bogged down in
5 the sense, because we have Mr. Kocaj saying repeatedly, he
6 has the wherewithal of relying on Albanian organized crime
7 associates and figures to commit serious acts of violence.
8 He says he can do it. He says it over, and over, and over
9 that he will -- he has the ability to do all this.

10 And the reason that doesn't happen is not because
11 Mr. Kocaj ultimately can't do it, it's because the person
12 doesn't follow back up with him and enlist his assistance,
13 which I think is an important distinction.

14 It's not as if Mr. Kocaj was just blustering and,
15 you know, when push came to shove he couldn't actually do it.
16 It's that this happened -- his assistance was not again,
17 enlisted.

18 THE COURT: Okay. So I know defense counsel would
19 like me to proceed without the recordings, but I'm not going
20 to do that if the Government wishes to rely on the recordings
21 and enter in a protective order, because that would prejudice
22 the Government's ability to -- or at least moot out some of
23 the points.

24 MR. EDELMAN: Can I -- can I just have a second
25 call to think that over, whether we want to proceed on the

1 recordings or not?

2 THE COURT: Certainly.

3 MR. EDELMAN: A short second call for later this
4 afternoon.

5 THE COURT: Certainly. That's fine.

6 MR. EDELMAN: I can also speak to Mr. Booth a
7 little more about this as well.

8 THE COURT: Yes. That's fine.

9 THE CLERK: Second call.

10 THE COURT: Okay.

11 THE CLERK: Thank you.

12 MR. EDELMAN: Thank you, Your Honor.

13 (Off the record from 3:02 p.m. to 4:19 p.m.)

14 THE CLERK: Second call, Case No. 19-CR-575 and 19-
15 CR-577, United States v. Mark Kocaj.

16 Counsel, your name for the record?

17 MR. EDELMAN: Good afternoon, again, Your Honor.
18 Keith Edelman for the United States.

19 THE COURT: Good afternoon.

20 MR. BOOTH: Christopher Booth for the defendant,
21 Your Honor. Thank you for the opportunity to -- I've
22 listened to the recordings, along with my paralegal. We had
23 an agreement with the prosecution.

24 MR. EDELMAN: Yes. And as we discussed and just
25 wanted to put on the record and have, I guess technically,

1 Your Honor formally endorse, that there was an agreement that
2 Mr. Booth and his paralegal would be able to listen to the
3 recordings, which they've done. They've returned the disc
4 back to me.

5 One of the conditions was that Mr. Kocaj not
6 listen, but that Mr. Booth be able to discuss the substance
7 with Mr. Kocaj, but that Mr. Kocaj be instructed, at least at
8 this venture, not to discuss that substance with anyone else.

9 THE COURT: Okay. I'm happy to so order on the
10 oral record, that agreed upon stipulation or protective
11 order, whatever you want to call it, between the parties.
12 And I'm assuming, Mr. Booth, you've communicated the
13 appropriate restrictions to your client. Is that correct?

14 MR. BOOTH: I have. And you understand those?

15 THE DEFENDANT: I do.

16 THE COURT: Okay. So in light of that I'm going
17 to, you know, rely on my recollections of and parties are
18 free to refer to, as they see fit, the various components of
19 the recordings that were provided in support of the
20 government's request for detention.

21 Mr. Booth, anything you would like to say about the
22 recordings or -- that bears upon bail. And, Mr. Edelman, I
23 certainly will give you an opportunity to respond.

24 MR. EDELMAN: Thank you.

25 MR. BOOTH: Thank you. An initial matter, Your

1 Honor, I would like you to consider that although the
2 defendant was arrested by the FBI at his home yesterday
3 morning, around 5:00 in the morning, this should essentially
4 have been considered a voluntary surrender situation.

5 Back in June, the defendant was at his place of
6 business, CWC Contracting, where he is an employee, and the
7 federal government executed search warrants at that time.
8 They seized some of the defendant's property, along with
9 property belonging to many other people.

10 At that point it was learned that there were search
11 warrants issued by this court, and the nature of the charges
12 was included in the search warrant information. So at that
13 point, defendant was on notice that there was this federal
14 investigation.

15 He contacted my office, retained me promptly, and
16 on July 8th, I advised the defendant without any confidential
17 statements, as to the nature of proceedings, the charges he
18 could face, that he could be held without bail, the type of
19 charges, penalties involved.

20 Knowing all that, I then contacted the government,
21 and on July 16th, I spoke with Mr. Edelman and I advised him
22 that when I learned the defendant was a target, I said, if
23 you wanted to arrest the defendant let us know and I would
24 voluntarily walk him to your office and that's how it would
25 be.

1 It didn't turn out that way, but in the interim,
2 all these months later the defendant did not flee. The
3 defendant did not do anything untoward.

4 There were allegations yesterday with respect to
5 one of the co-defendants who the government sought to have
6 detained, that that person engaged in elicited activities
7 relative to this case, potential obstruction, things of that
8 nature. Nothing like that with my client.

9 He continued to support his family and live at
10 home. So he did not flee and he did not do anything that the
11 government -- you know, in seeking to detain him, I guess
12 they worried that he might do certain things. He had the
13 opportunity to do that already and he didn't, so he has a
14 track record that he would be fine.

15 The Pretrial Services recommended no bail
16 conditions, and one of the things they relied on was an alias
17 name. I looked into that. When they ran the defendant's
18 pedigree information they came up with a name, Mark
19 Monumental.

20 I asked the defendant about that, and that is a
21 juxtaposition of a business that he used to work for, called
22 Monumental Construction.

23 So somewhere in the databases of records, they've
24 conflated a place he used to work with his name. He never
25 used that alias, and I asked his family. No one ever said

1 that he did, so that is essentially a typographic error.

2 The history of foreign travel was certainly not a
3 strong point. The defendant is 49 years old. I looked at
4 his passport. It was issued in 2018. It's a newer passport.
5 But there's only one trip in it. It was a short vacation to
6 Italy in 2018. He advises me, and his family advised me that
7 he has never traveled outside of the United States before
8 that.

9 So you have a 49 year old man who is born and
10 raised in New York. His extended family is here, Your Honor.
11 You can see them here. His brother, his wife, his 18 year
12 old son who goes to college, his nephew, his cousin, his
13 friend Alex, who is one of the potential suretors we spoke
14 about earlier.

15 His mother-in-law was here yesterday, interviewed
16 by the government but she could not be here today because
17 she's at work. We could have clogged the courtroom with more
18 people, but I told the family the show of support was
19 sufficient.

20 So he has bonafide roots in the community, and most
21 importantly, no criminal record. And he has a record -- is
22 verified by the Pretrial Services of being a working man. He
23 has worked his whole life. He had some education, West
24 Chester Community College, for a little bit. And in 2015, he
25 began working for CWC Construction company that is subject of

1 this case, Your Honor.

2 We dispute -- there's a line in the indictment that
3 says the defendant has an ownership interest on page 8. The
4 defendant denies having any ownership interest in CWC. He
5 was a salaried employee. He received a check. He paid his
6 taxes.

7 He had no responsibility for the financial matters
8 of CWC in terms of payroll deductions, forms submitted to the
9 Department of State, and -- I'm sorry, Department of Labor.
10 And with respect to that, there are allegations here that
11 some people fraudulently obtained these certificates showing
12 that they participated in safety courses.

13 Mr. Kocaj advises that before he was employed in
14 2015, he already had his, and it was valid through this
15 period that he's been working.

16 So he did not submit any false paperwork or ask
17 anyone to do it. That wasn't his responsibility at the job.
18 So again, that is not something that should roll over to the
19 defendant's culpability.

20 What does he do at the company? He's a project
21 manager.

22 THE COURT: Counsel, I appreciate a lot of this,
23 but I'm not sure there's a lot that I dispute about this, or
24 that I would conclude otherwise, vis-a-vis your client. I
25 would like to know if there is anything you would like to say

1 about the items on the recording.

2 And let's go to that because that's on what -- a
3 lot of these factors would otherwise -- maybe the government
4 would dispute it, but in my view they favor the defendant's
5 release. We're really here on the point of the -- that the
6 Government is pressing, which is --

7 MR. BOOTH: All right, Your Honor. Well, then I
8 will address in the context of my argument of the detention
9 memo itself.

10 You notice in the detention memo they ask for
11 detention of the defendant and four other individuals. The
12 defendant stands in stark contrast to those individuals.
13 Three of those individuals are reputed members of the Gambino
14 crime family, allegedly. My client is not. The government
15 makes that clear, that he is not a member of the Gambino
16 crime family.

17 In addition, the fourth person who they seek
18 detention has a bonafide, allegedly corroborated, history of
19 violence. Actual violence that my client does not. So he
20 stands in complete contrast to those individuals.

21 I, as the Court focused in on the two paragraphs on
22 page 14 -- and I've listened to the recordings, Your Honor,
23 and with respect to that first incident in November of 2018,
24 there is audible laughing at the point when the -- the first
25 time the Albanians, quote/unquote, the Albanians is dropped;

1 when someone mentions sending in Albanians. There's laughter
2 heard by someone. There are multiple participants in the
3 conversation. Hard to hear.

4 But it certainly sounds like jocularly, and when
5 this phrase comes out that I'll snatch him up, there is an
6 incredulity in when you hear the people talking about this.
7 And it's all in the hypothetical and it's conversational.
8 And most importantly, there is no evidence or assertion that
9 any violence ever came to pass.

10 And I call the Court's attention that that incident
11 in November is an uncharged crime. The defendant is not
12 charged with that.

13 Certainly, it looks like nothing ever came of it,
14 and there is no -- no evidence that the defendant seriously
15 ever intended to do what the government asserts the
16 conversation suggests he might.

17 When you consider that that same person -- and when
18 I listened to the voice in the conversation, it was hard for
19 me to tell if the participants from the November conversation
20 were the same participants in the May of the following year
21 conversation.

22 But just think, if it is now this victim in the May
23 conversation who allegedly was trying to solicit unlawful
24 activity in the November incident, think of what that says to
25 his credibility with respect to the second incident. All

1 right? It makes him dirty as the day is long, and in front
2 of a jury he will be eviscerated in terms of credibility.

3 So the May conversation, it was my thinking before
4 the Court mentioned it, it's in my notes, and now having
5 heard the conversation still the same, that is the defendant
6 not saying I will do this, it is as if one person here owes
7 money to another person there, and I'm familiar with all of
8 these parties, and I'm saying wow, if that guy doesn't pay
9 up, he's going to get hurt; he could get hurt.

10 Defendant doesn't say, I'm going to do anything.
11 And there is a vein that runs through both of these separate
12 dates of -- it sounds like people are talking to motivate a
13 person to pay to avoid violence.

14 And most significantly with respect to this May
15 incident, the one for which he stands charged, there's no
16 accusation that any violence ever took place, or that the
17 alleged threats the defendant made, and I don't concede that
18 he did, because I think it's talking in generality, were ever
19 conveyed to the complainant and that's why he paid.

20 Forty-nine years with no criminal record. The
21 level of dangerousness to the community that is normally
22 established is absent here. The only danger ostensibly in
23 this case, is essentially to one person; this victim who, at
24 one point, is potentially a criminal and at next point has
25 the shield of a victim. I wonder if he was an informant at

1 the time because then issues of entrapment arise, and
2 certainly credibility. So that is a concern that's out
3 there.

4 But when you consider the life history of the
5 defendant and that he doesn't have a history of doing any of
6 this, and the government can't point to a violent thing --
7 oh, I wanted to comment, Judge, incase it caught your
8 attention.

9 There was one quote in the government's indictment
10 where the defendant makes a statement that he had a fight in
11 a diner and he stabbed the guy with a fork. And it was
12 unusual because in the government's paper, there was no
13 context of what that is. So I asked the defendant about
14 that.

15 When the defendant was a teenager, he had a fight
16 in a diner. Has nothing to do with anything in his adult
17 life, and certainly didn't stab somebody with a fork 1,000
18 times.

19 So given the absence of any violence in my client's
20 background, even if you accept the government's argument that
21 in this one isolated incident -- that's what I want to call
22 to the Court's attention.

23 The thrust of these accusations against Mr. Kocaj
24 are for a limited time in November of 19. And for that
25 limited time of no actual violence happening, they seek no

1 conditions of bail.

2 That's setting a standard of dangerousness to the
3 community that is so low that I would ask the Court to
4 decline the government's invitation to set it.

5 THE COURT: Okay. Mr. Edelman.

6 MR. EDELMAN: Thank you, Your Honor. I don't need
7 to represent all the 3142G factors. I just want to respond
8 to what Mr. Booth said.

9 The first is -- I'll start maybe in reverse order,
10 the discussion of how this was an isolated incident.

11 I have to dispute that in the sense that when Mr.
12 Kocaj is speaking in November of 2018, he's talking about
13 people he has at the ready who he can send out. That, while
14 it's only a recording from that one moment in time in
15 November 2018, it illustrates a more broad-reaching, existing
16 criminal capabilities. He has people that he can send to
17 commit acts of violence and is more than willing to do so.

18 And with respect to the comment that they're
19 laughing, well, this is a recording that Your Honor listened
20 to where you pinpointed some certain spots. It's a rather
21 long recording. It's a full discussion. This is not a off-
22 the-cuff comment. It is not one thing said in jest.

23 Mr. Kocaj is the person who brings it back up and
24 he makes these repeated statements during the course of the -
25 - during the course of the conversation.

1 And quite frankly, if they're laughing about having
2 someone's -- grabbing someone by the f'ing neck and finding
3 out where he is and catching an f'ing beating and they're
4 laughing about that, I submit that actually shows callousness
5 and an actual greater risk of danger because he doesn't even
6 view those sorts of things as any big deal, if there's any
7 laughter there at all.

8 So similarly, when Mr. Booth says that this is
9 hypothetical, I would submit, that's not the right word.
10 It's planning. It's, this is what I'm capable of doing.
11 This is what I'm willing to do if you, later victim, want me
12 to do it. I'm happy to do it for you.

13 And as I stressed earlier, the reason why that
14 doesn't come to be is not because Mr. Kocaj wasn't able to do
15 it when called upon. It's that the victim didn't come back
16 and say, okay, I want you to do it.

17 Mr. Booth challenges the credibility of the victim.
18 I -- obviously just saying one thing about that is, that's
19 neither here nor there for these purposes. We're talking
20 about Mr. Kocaj's words on tape. Nothing that we're relying
21 on for these purposes is relying on the voracity of the
22 victim.

23 And just the last bit about the fact that Mr. --
24 from the May 2019 incident in which Mr. Kocaj -- he's not --
25 I grant, he's not saying I'm going to go out and commit

1 violence unless this person pays.

2 But what he is saying is, A, he has full knowledge
3 of what will happen if the victim does not pay. He has
4 indifference to that. He says repeatedly that, if he doesn't
5 want to pay, he doesn't care and just let his friends do what
6 they do. So while he's not affirmatively going and saying,
7 I'm going to commit violence, he's perfectly happy to let it
8 happen.

9 And in order for it to not happen, yes, there is
10 the risk of -- there is the threat and implied threat of
11 violence to collect money so that he doesn't get hurt.

12 But that's what the crime is. The crime,
13 extortionate collection of credit, is causing someone to pay
14 under fear of threat of violence.

15 It doesn't have to be obviously that there is
16 violence that is committed. That's how these -- that's how
17 these criminals work. They work with the fear in the
18 background and the fear being spoken about, but they don't
19 actually always have to use violence in order to collect
20 their illegal proceeds.

21 So lastly, what Mr. -- Mr. Booth says that only one
22 person is in danger at this point, and I have to disagree
23 with that. While this incident -- it actually relates to two
24 people. The first was a potential victim. That's who the --
25 I don't want to get too confusing, but that's who the later

1 victim perhaps wanted to have assaulted.

2 But even putting that aside, as I started with, the
3 conversations show that Mr. Kocaj has people at the ready to
4 do acts of violence. Kind of whoever comes and solicits it.

5 So it's -- he has that network in place and those
6 contacts in place, such that he can commit acts of violence
7 if he wants. And so it's not just that there's one person
8 that was in danger and now it's all over. He has that ready
9 standing relationships.

10 And so while, yes, we searched -- the FBI searched
11 CWC's office in June 2019, and I spoke with Mr. Booth, and
12 yes, given the nature of all the charges we were not going to
13 accommodate all these different self-surrenders.

14 So while he knew the nature of the charges, I
15 submit the nature of the charge that he's now charged with,
16 and the sense and type of evidence that he's now presented
17 with, I submit are far different than what he believed back
18 in June 2019.

19 I will note that -- I mean, just one thing. There
20 have been recordings now discussed and disclosed in this
21 limited format to the defense. It's our position that Mr.
22 Kocaj didn't believe that there were any such recordings that
23 would have been taking place at the time.

24 THE COURT: Okay. I'm not -- I also am not going
25 to repeat my observations from earlier, but let me say a

1 couple of things about my view of the recordings and how they
2 bear upon my ultimate disposition.

3 I think the first set of recordings are troubling,
4 and they're quite troubling, and they put a lot of substance
5 to what's on the paper.

6 And I disagree with Mr. Booth's view that, you
7 know, a conversation for the purpose of avoiding violence
8 doesn't necessarily constitute a crime.

9 I think that is the crime of extortion, the threat
10 of violence to effectuate certain means, and it does suggest
11 associations and it does constitute a threat. Obviously,
12 it's for a jury to decide what to make of that.

13 The second recording I will say is, at various
14 parts, very hard to understand, and that may be a function of
15 the device I was listening on more than anything else.

16 But, you know, it is at -- it does reinforce my
17 reaction upon reading the statements in the detention memo
18 that it is not clear that it's a threat towards anyone, that
19 it's observational, that I'm not sure that that -- what
20 happens in the second recording could -- would constitute a
21 crime, or that anyone is actually being threatened with
22 violence.

23 But, you know, where I -- I think where I depart
24 from the government's view is whether the November 18 set of
25 conversations, including you know, the statement, I'll send

1 somebody. It's not a problem.

2 I agree with the government that that constitutes
3 access to a knowledge of individuals. Whether that is
4 sufficient to deny bail of someone who, in 50 years has no
5 criminal history, who has been gainfully employed, who has
6 strong family connections, who has limited travel, and where
7 you know, look, you know, this correctly or incorrectly
8 weighs into the Court's decision.

9 There are lots of bail packages in this court.
10 You can just sit in this courtroom; individuals with
11 extensive or substantial violent criminal backgrounds being
12 released on bail.

13 Here, we have someone where admittedly I am not
14 trying to sugar coat in any way or diminish the severity of
15 the November 2018 offense, but it's not -- the offense itself
16 does not actually result in violence as Mr. Booth points out.

17 But, you know, if it were combined with prior
18 problematic history, lack of community ties, and lack of
19 other conditions, then I might be inclined to decline bail.
20 But here, we also have -- you have to weigh all of these
21 factors in light of what the proposed conditions are, and we
22 have three properties being offered.

23 I understand that that's the full amount of the
24 equity in those properties. Plus a, you know, a substantial
25 amount of retirement packaging, plus home detention and GPS

1 monitoring.

2 And you know, when you line up all of that with,
3 you know -- you know, a serious offer of proof by the
4 government as to the charged offence, you know, it becomes a
5 close call. But the -- it's not a presumption case.

6 Also I note that the factors that are cited in the
7 Pretrial Service report and by the government, frankly, about
8 association with crime family members, et cetera, these just
9 don't bear out either in the indictment or the other
10 proffered facts, and so I can't really rely on some of the
11 things I might rely on for some of the other charged
12 individuals, that they're members of a -- you know, organized
13 crime. They simply -- those factors as a threat of violence
14 appear to just fall away when I'm thinking about Mr. Kojac's
15 (sic) specific circumstances.

16 So in light of the substantial bail being offered,
17 the absence of any criminal history, the absence of any
18 violence in his past, or long ties to the community, I am
19 prepared to release Mr. Kojac (sic) upon the proffered
20 conditions and the bail offered by Mr. Booth.

21 I do want the parties to discuss whether there are
22 any particular conditions related to this case, such as
23 contact with co-defendants and the like, that Mr. Booth
24 didn't proffer that I should consider, because I do think
25 that that would be appropriate.

1 Look, I'm not you know, as I've stated in other
2 cases, the government can certainly appeal and you know, you
3 can request a transcript.

4 I just think that it is significant that amongst
5 the, you know -- and I recognize the other person isn't
6 charged with the offense, but you know, there was another
7 defendant earlier on just released who has a criminal
8 history, and you know, I haven't reviewed every defendant in
9 this case for that, but you know, 50 years is a long time if
10 you're talking about someone who is supposedly a --
11 associated with organized crime never to have been charged,
12 or never even been arrested.

13 So for all of those reasons, I think the bail
14 factors in a non-presumption case favor release under the
15 stringent conditions I'm about to impose.

16 MR. EDELMAN: Could I -- I don't know if you want
17 to go through the beginnings of the bond, or I can speak with
18 Mr. Booth about --

19 THE COURT: Well, why don't you speak so I can just
20 all do it at once?

21 MR. EDELMAN: Sure.

22 (Counsel confer.)

23 MR. EDELMAN: So, Your Honor, I believe --

24 THE COURT: Can you just write those out in the
25 condition in the -- once Felix is done filling it out?

1 MR. EDELMAN: Sure.

2 THE COURT: And then I'll -- and then I'll explain
3 them to him.

4 (Pause)

5 THE CLERK: Do you want electronic monitoring?

6 MR. EDELMAN: Yes.

7 THE CLERK: Home detention or --

8 UNIDENTIFIED SPEAKER: I think he's got to be
9 permitted to go to work, Your Honor.

10 MR. EDELMAN: I believe the --

11 UNIDENTIFIED SPEAKER: If he's going to work, it
12 has to be in a specific location. It can't be -- or location
13 --

14 THE COURT: What I would suggest for the work
15 condition is, as approved by Pretrial Services.

16 MR. EDELMAN: Yes, and --

17 THE COURT: And because I think there's some
18 question about whether being able to go back to the same work
19 location would be okay.

20 And so, if there is some alternative employment or
21 something else that Pretrial Services agreed upon, we
22 wouldn't have to agree today as to what that employment
23 looked like.

24 MR. BOOTH: I had suggested to the prosecution,
25 Your Honor, former employer. The defendant -- because the

1 company is defunct where he was working as a result of this
2 case.

3 THE COURT: I'll just leave it open, Pretrial
4 Services so that you don't have to come back and it can be
5 done by --

6 MR. EDELMAN: That's fine. And I -- just so we are
7 clear, the government may have an objection depending on
8 where, and so we may raise that in the future.

9 THE COURT: That's fine.

10 (Counsel confers with Pretrial Services.)

11 MR. BOOTH: Your Honor, I'm surrendering the
12 defendants passport.

13 (Counsel confers with Pretrial Services.)

14 THE COURT: Okay. Are we ready?

15 MR. EDELMAN: Yes.

16 THE COURT: Mr. Kocaj, I'm prepared to release you
17 on bail, but I can only do so if I am assured that you
18 understand the conditions on which you're being released and
19 the consequences of violating those conditions. Okay?

20 I'm going to first explain to you what those
21 conditions are, what the consequences are, then I'm going to
22 have your family members who are, I understand, signing on to
23 the bond come up here and explain that to them.

24 If you have any questions at any time, you can just
25 let your lawyer know and I'm happy to rephrase or answer any

1 questions. Okay?

2 THE DEFENDANT: Understood.

3 THE COURT: So you're certain -- you're subject to
4 certain conditions. The -- you're under the supervision of
5 Pretrial Services.

6 What that means is, they can visit you at home or
7 any place of work. They can also -- and they can do so
8 randomly. Okay? They also can say please see us at a
9 certain place and a certain time, and you're required to
10 comply with that.

11 You're also subject to home incarceration and home
12 detention. Rather -- excuse me, home detention, and you can
13 only leave to go to work or meet with your lawyer and the
14 work has to be approved by Pretrial Services. Okay?

15 Relatedly, you're subject to a travel restriction.
16 Okay? Which basically means that you can't leave Long
17 Island, New York City -- excuse me -- West Chester, Rockland,
18 Dutchess County. If you have any questions about the
19 northern counties, you can ask your lawyer who will explain
20 to you.

21 You're also subject to what's known as a contact
22 restriction. You can't speak with or contact in any way, any
23 co-defendant unless your lawyer is present. You also cannot
24 contact or attempt to contact any victim, witness, or any
25 known members or associates of associate -- of organized

1 crime.

2 Now, this is not a kind of condition that is -- you
3 disobey and seek forgiveness. Okay. You need to seek
4 permission in advance, and so if you have any doubt as to
5 whether someone falls in one of these categories, you should
6 call your lawyer who can try and verify whether or not it's
7 appropriate for you to speak with that person or to meet with
8 that person.

9 You're also subject to what are known as the
10 standard conditions of supervised -- of bail, which apply to
11 anyone who is released from this court.

12 You can't possess a firearm or any destructive
13 device. You can't possess any narcotic drug or controlled
14 substance unless you have a licensed doctor's prescription.
15 You can't change your phone number or your address without
16 notifying the government, your lawyer, and the court, and
17 Pretrial Services in writing. You also may not violate any
18 local law, any state law, or any federal law. Okay?

19 Do you understand those conditions, sir?

20 THE DEFENDANT: I do.

21 THE COURT: Okay. Let me explain to you what the
22 consequences are. If you were to violate any of these
23 conditions or not come to court as you're required to, you
24 could be subject to a prosecution for bail jumping. You also
25 -- the Court would also issue an arrest warrant and you would

1 be brought to court and you would be denied bail until the
2 conclusion of any trial.

3 As I mentioned, it is one condition that you may
4 not violate any state law, any local law, or any federal law.
5 If you were to commit a crime while you're out on release,
6 you're subject to three separate prosecutions. Okay?

7 One is for the crimes you've been charged with in
8 this indictment. The second is for any crime that you commit
9 while out on release. The third, it is a separate federal
10 crime to commit a crime while out on bail.

11 If you are prosecuted and found guilty for that
12 third crime, committing a crime while out on bail, any
13 sentence for that crime would -- would be imposed consecutive
14 to, which means it would come after any sentence you would
15 receive in this case.

16 It is -- as I mentioned, you are subject to a
17 contact restriction which includes victims and witnesses.
18 It's a crime to interfere with any victim, witness, or juror
19 in your case.

20 Also, you have family members who are signing on
21 to, and you're signing on to a \$600,000 bond, plus -- which
22 is secured by property, plus a 401(k).

23 Now here's the consequence to you if you violate a
24 condition or don't come to court. The government could seek
25 to collect that money from you.

1 But also, they would seek to collect that money
2 from those properties and from the retirement accounts, from
3 those individuals your family members who have come forward
4 here, and friends, to support you today. Okay?

5 Which means that you would have serious financial
6 consequences upon them, and as I understand it, we're talking
7 about the remaining equity in the home, which means they
8 would be losing their homes and be kicked out if you were to
9 violate any of these conditions or fail to return to court,
10 okay? Which means that they would have nowhere else to live.
11 Okay?

12 Do you have any questions about any of these
13 consequences, sir?

14 THE DEFENDANT: No.

15 THE COURT: Okay. I'm happy to have the suretors
16 come forward, please.

17 THE CLERK: Is there another suretor?

18 MR. BOOTH: Your Honor.

19 THE COURT: Okay.

20 MR. BOOTH: This is Alex Squarely (ph), who is
21 putting up the home.

22 THE COURT: Okay.

23 MR. BOOTH: And the defendant's wife.

24 THE COURT: And we have a third suretor?

25 MR. BOOTH: Yeah, and I thought he was here. He

1 was here yesterday, Alex, but he's not here today.

2 (Pause)

3 THE COURT: Okay. Mr. Booth, let me ask you this;
4 whose retirement account are we talking about?

5 MR. BOOTH: Mr. Squarely.

6 THE COURT: Okay. And the home at Chauncey Street,
7 who does that belong to?

8 (No audible response.)

9 THE COURT: Okay. And the Valley View Drive Road?

10 (No audible response.)

11 THE COURT: Okay. And so, Mr. -- Mr. Peter
12 Cosiledge (ph) would be signing on for -- for which property?

13 MR. BOOTH: No, not with respect to the properties,
14 Your Honor. Just an additional signer --

15 THE COURT: Okay. So --

16 MR. BOOTH: -- pledging his income.

17 THE COURT: -- this is what I'm going to do. I'm
18 going to release your client, provided I find that Mr.
19 Squarely and Ms. Senna understand and are appropriate
20 suretors, and I'm going to have -- require that Mr. Peter
21 Cosiledge come in by Monday to sign on to the bond.

22 MR. EDELMAN: Your Honor, on --

23 MR. BOOTH: There's one other mixup here I'm
24 apologizing for. Present standing here, Your Honor, is
25 Laurie Messina. That's the defendant's wife. Vivian Messina

1 is the defendant's mother-in-law. She was the signer that
2 was here yesterday and met with Mr. Edelman. So the wrong
3 Ms. Messina came up. The mother-in-law is not here today
4 because she had to go to work, so I would ask the Court the
5 same consideration to allow her to come in along with Peter
6 next week.

7 If that's not satisfactory, I do have other
8 relatives here who I could swap in.

9 THE COURT: Is that satisfactory to the --

10 MR. EDELMAN: Yes, in principle. The only thing is
11 we -- I don't know anything about the new people who are
12 being thrown in, as to whether they're financially
13 responsible.

14 THE COURT: Well, what I was going to say is, I was
15 not going to suggest replacement.

16 MR. EDELMAN: Okay.

17 THE COURT: I was going to suggest that because the
18 property and the 401(k) signers are here, and the other two
19 are moral suasion suretors who would also be liable to the
20 \$600,000 amount, that they be permitted until close of
21 business Monday to come forward and sign in front of whoever
22 is on duty on that date.

23 MR. EDELMAN: That's fine, Your Honor. Obviously,
24 you know our overall position.

25 THE COURT: Yes.

1 MR. EDELMAN: But with understanding that, that's
2 fine. And I also will note -- I mentioned this to Mr. Booth,
3 but just so Mr. Kocaj can hear, we're not going to appeal
4 Your Honor's decision.

5 THE COURT: Okay.

6 THE CLERK: Judge, I'm going to ask some questions.
7 I'll put you under oath. Please raise your hand.

8 (The suretor is sworn.)

9 THE CLERK: Please say your first name and speak
10 loudly, this is being recorded.

11 MR. SQUARELY: Alex Squarely.

12 THE CLERK: Thank you.

13 THE COURT: Okay. Mr. Squarely, you understand
14 that I'm going -- well, first of all, what's your
15 relationship to Mr. Kocaj?

16 MR. SQUARELY: We grew up together.

17 THE COURT: Okay.

18 MR. SQUARELY: Childhood. Next door neighbors 35
19 years.

20 THE COURT: And how often do you, or regularly do
21 you speak with him, or see him?

22 MR. SQUARELY: Twice a week. We were in each
23 other's wedding parties. Best of friends.

24 THE COURT: Okay. And, sir, what do you do for a
25 living?

1 MR. SQUARELY: I'm a resident property manager in
2 Manhattan.

3 THE COURT: Okay. And what's your approximate
4 yearly income?

5 MR. SQUARELY: I'm sorry?

6 THE COURT: What's your approximate yearly income?

7 MR. SQUARELY: About 105,000.

8 THE COURT: Okay. And so what are you signing,
9 what property or --

10 MR. SQUARELY: 35 Valley View Drive, which is my
11 present -- my home with my wife and kids.

12 THE COURT: Okay.

13 MR. SQUARELY: And my retirement plan.

14 THE COURT: Okay. Sir, do you understand, I'm
15 releasing your friend on certain conditions, and he's being
16 charged with certain serious crimes.

17 If he were to violate any of those conditions or
18 not come to court, it would mean the government would seek to
19 collect from you --

20 MR. SQUARELY: I understand.

21 THE COURT: -- your family home, as well as seek to
22 collect the entirety of your 401(k) retirement account. Do
23 you understand that?

24 MR. SQUARELY: Yes.

25 THE COURT: Okay. And are you still willing to

1 sign on --

2 MR. SQUARELY: I am.

3 THE COURT: -- to the bond? Okay.

4 MR. SQUARELY: Yes.

5 THE COURT: And I'm going to have Mr. Squarely
6 sign. Maybe I'm a little bit confused. Is the -- isn't the
7 defendant's wife necessary to sign on for his home?

8 MR. BOOTH: She's not on the deed, Your Honor.

9 THE COURT: She's not on the deed. It's just --

10 MR. BOOTH: Just the defendant.

11 THE COURT: Okay.

12 THE CLERK: Sign above your name and put your
13 address next to it.

14 (Pause)

15 THE CLERK: And have your friend sign lower right-
16 hand corner. Lower right-hand corner.

17 (Pause)

18 THE COURT: Okay. And I find that Mr. Squarely
19 understands his obligations and is a -- under consequences.
20 I also find that Mr. Kocaj understands his obligation and the
21 consequences of violating them, and I note that -- I have
22 noted on the -- it's been noted that the other two suretors
23 must come in by close of business on Monday and must be
24 vetted by the magistrate judge then. Okay.

25 Anything else?

1 MR. EDELMAN: Nothing else, Your Honor.

2 MR. BOOTH: Nothing. Nothing. Thank you.

3 THE COURT: Okay. Have a nice weekend.

4 (Proceedings concluded at 5:05 p.m.)

5
6 I, CHRISTINE FIORE, Certified Electronic Court
7 Reporter and Transcriber, certify that the foregoing is a
8 correct transcript from the official electronic sound
9 recording of the proceedings in the above-entitled matter.

10
11 

12 _____ December 12, 2019

13 Christine Fiore, CERT
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